

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

**DAVID W. ROUSH and
MELISSA ROUSH,**

Plaintiffs,

v.

Case No.: 3:18-cv-01184

**SCHNEIDER NATIONAL CARRIERS, INC.
And ANDREW CHIONG,**

Defendants.

ORDER

Pending is Plaintiffs' Motion for an Order to Compel Records from Precision Sleep Solutions on Defendant Andrew Chiong. (ECF No. 57). This civil action arises from a vehicle accident that occurred in Putnam County, West Virginia on May 1, 2017. Plaintiffs claim that a commercial vehicle owned by Defendant Schneider National Carriers, Inc. ("Schneider"), and being operated by Defendant Chiong, crossed the center line of Route 35 and struck head-on the vehicle driven by Plaintiff David Roush. As a result of the collision, Plaintiff allegedly suffered severe and permanent physical and psychological injuries. (ECF No. 1).

Plaintiffs contend that Defendant Chiong was not properly trained and supervised by Schneider, and the collision with Plaintiff Roush resulted from Chiong's fatigue and distracted driving. Accordingly, Plaintiffs have attempted to collect records related to these allegations. At a prior hearing on a similar issue, the Court agreed with Plaintiffs that they were entitled to obtain records related to Defendant Chiong's health status at

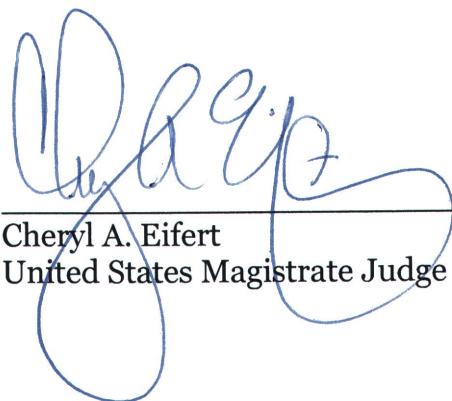
the time of and before the accident.

Now Plaintiffs seek to collect additional records related to the same subject matter. Schneider objects on two grounds. (ECF No. 59). First, Schneider states that it has already provided to Plaintiffs the documents they seek in their subpoena to Precision Sleep Solutions and, second, Schneider adamantly contests Plaintiffs' claim that Defendant Chiong was not physically fit to operate a commercial vehicle, or had failed to follow Schneider's policies and rules. Neither of these objections is meritorious. Plaintiffs remain entitled to obtain the information, which, as stated at the prior hearing, is relevant to the current claims and defenses.

Therefore, Plaintiffs' Motion to Compel is **GRANTED**. Precision Sleep Solutions is **ORDERED** to comply with the subpoena and produce the requested records pursuant to 45 C.F.R. § 164.512(e)(1)(i). The records are subject to an Agreed Protective Order already in place in this litigation, which complies with 45 C.F.R. § 164.512(e)(1)(v). Counsel for Plaintiffs shall provide a copy of this Order to Precision Sleep Solutions.

The Clerk is directed to provide a copy of this Order to counsel of record.

ENTERED: February 21, 2020



Cheryl A. Eifert
United States Magistrate Judge